

Circuit Court for Montgomery County
Case No.: 484767V

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 0167

September Term, 2022

DEREK JARVIS, *et al.*

v.

AVISON YOUNG MANAGEMENT

Graeff,
Zic,
Eyler, James R.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: October 5, 2022

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

In February 2021, Derek Jarvis and Shirley Pittman, appellants, sued Avison Young Management, appellee, in the Circuit Court for Montgomery County alleging discrimination, retaliation, breach of contract, and negligence. Thereafter, Avison Young filed a motion entitled “Motion for Summary Judgment and Request for Hearing.” The motion did not contain a separate hearing request in its body. After Jarvis and Pittman filed their response, the circuit court scheduled a hearing on the motion for January 31. Three days before the hearing date, the circuit court granted summary judgment for Avison Young and canceled the hearing. The circuit court’s order did not explain its decision.

On appeal, Jarvis and Pittman present a single question: Did the circuit court err by not holding a hearing on Avison Young’s dispositive motion even though one was requested? For the following reasons, we shall vacate the judgment of the circuit court and remand for further proceedings.

Under Maryland Rule 2-311(f), a circuit court “may not render a decision that is dispositive of a claim or defense without a hearing if one was requested[.]” The party desiring a hearing must say so in both the title of their motion or response and in the body of that motion or response under a separate heading. *Id.* The titling requirement was added “for the convenience of the judiciary” in 2011 to create a more conspicuous signal of the party’s request. Paul V. Niemeyer & Linda M. Schuett, *Maryland Rules Commentary* 335 (5th ed. 2019). When the moving party requests a hearing, the non-moving party need not file a “redundant request.” *Phillips v. Venker*, 316 Md. 212, 217 (1989). In fact, when the moving party requests a hearing, the non-moving party need not file a response at all; the

court must still hold a hearing. *Adams v. Offender Aid & Restoration of Balt., Inc.*, 114 Md. App. 512, 515 (1997).

Here, Avison Young titled its motion “Motion for Summary Judgment and Request for Hearing.” But it did not include a separate hearing request in the body of its motion. Still, the circuit court docketed the request and scheduled a hearing. Though the request was faulty, we believe “form requirements [generally] should not overrule substance.” *Niemeyer & Schuett, supra*, at 56. “Attacking a pleading or paper based on improper form or titling alone accomplishes nothing but added delay and expense and, in most cases, is inconsistent with the responsibility of . . . the judicial system.” *Id.* The circuit court understood Avison Young’s motion to include a hearing request despite this deficiency as shown by its scheduling one. We therefore conclude that Avison Young requested a hearing on their dispositive motion. This triggered Rule 2-311(f)’s requirement that the circuit court hold one. Therefore, its failure to do so was error.

Avison Young argues that even though a hearing was required, we should still affirm the circuit court’s grant of summary judgment because remand would be futile. We disagree. Though sometimes permitted, affirming a summary judgment that was improperly granted without a hearing is reserved for cases raising narrow issues of law—such as standing—not present in this case. *See, e.g., Morris v. Goodwin*, 230 Md. App. 395, 410–11 (2016). “The preferable practice, particularly when a ruling on a motion is dispositive of a claim, is to conduct a hearing and for the court to give the parties and counsel the benefit of [its] reasoning.” *Williams v. Prince George’s Cnty.*, 112 Md. App. 526, 560 (1996). Indeed, one of the aims of Rule 2-311(f) is to foster adjudication of issues

at the trial level in a manner that will permit us to review any claims of error “in their refined, rather than . . . raw state.” *Id.* at 559. This is especially germane to appeals from a grant of summary judgment as our review of such orders is limited to “only the grounds upon which the trial court relied[.]” *Barclay v. Briscoe*, 427 Md. 270, 282 (2012). The circuit court here did not state its grounds, leaving us with nothing to review. Consequently, we will vacate the circuit court’s judgment and remand the case for further proceedings.

**JUDGMENT OF THE CIRCUIT
COURT FOR MONTGOMERY
COUNTY VACATED. CASE
REMANDED FOR FURTHER
PROCEEDINGS CONSISTENT
WITH THIS OPINION. COSTS TO
BE PAID BY APPELLEE.**